

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant(s): Joachim KOERNER et al.
Title: MICRODOSING DEVICE

Serial No.: 10/777 257 Group: 3772
Confirmation No.: 5395
Filed: February 12, 2004 Examiner: Patel
International Application No.: N/A
International Filing Date: N/A
Atty. Docket No.: 5000.P0019US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FIRST CLASS MAILING CERTIFICATE

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 30, 2007.


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Correspondence: Reply Brief Under 37 CFR 41.41

190.05/05

PATENT APPLICATION



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REPLY BRIEF UNDER 37 CFR 41.41

Sir:

This Reply Brief is filed pursuant to the provisions of 37 CFR 41.41 and is directed to information provided in the Examiner's Answer.

On the cover sheet of the Examiner's Answer, the Examiner indicates that "This is in response to the Appeal Brief filed on June 15, 2007 appealing from the Office Action mailed November 30, 2005." This is incorrect. Appellants are appealing from the Office Action mailed May 16, 2006, as indicated in Appellants' Brief on Appeal.

The Examiner's Answer indicates on page 2, paragraph (3) that the status of claims contained in the Brief is correct. However, Appellants' Brief on Appeal inadvertently indicated that claims 12, 14 and 15 stood rejected under 35 USC §112, first paragraph. This was in error. In the Final Office Action mailed May 16, 2006, the Examiner withdrew the rejection of claims 12, 14 and 15 under 35 USC §112, first

paragraph. Therefore, the correct status of claims is that only claim 10 stands rejected under 35 USC §112, first paragraph. Claims 10-19 were correctly indicated as having been rejected by the Examiner under 35 USC §102(b) as being anticipated by U.S. Patent No. 6 196 219 to Hess et al.

In the Response to Arguments, on page 7 of the Examiner's Answer, the Examiner states that column 7, lines 15-25 of the Hess reference states that the "the heating may contribute at the end of the atomization cycle to evaporate any minute amount of liquid left in space 9." The Examiner reads the phrase "at the end of the atomization cycle" as implying that there is a pause or a pre-determined time separation period and the flexible heating element is activated after the end of the atomization cycle. Appellants respectfully disagree.

First, a reading of Hess '219, column 7, starting at line 4, when taken in context, indicates that the heating element is operated throughout the usage cycle of the spray device. Specifically, by establishing a known temperature, drug substances such as "steroids...become more soluble with a higher temperature" and "thanks to this heating, humidity influences due to the environment in which the spray device operates may also be taken into account to ensure correct functioning." (Column 7, lines 14-17) This would seem to indicate that the heating element is operated throughout the dosing cycle of the spray device disclosed by Hess et al. '219 in order to control the temperature variable and its effect on spray particles.

Second, the Examiner reads the following paragraph as indicating that it is implied that the heating unit is turned on after the atomization cycle is completed. However, the Examiner does not quote the entire paragraph leaving the quoted matter out of context. A reading of the entire paragraph appears to teach just the opposite of what the Examiner is asserting. The paragraph, in whole, reads as follows:

"Furthermore, such heating may contribute at the end of the atomization cycle to evaporate any minute amount of

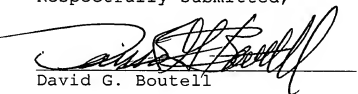
liquid left in space 9, same as a continuation for a predetermined time of the actuating of the vibrating means after the inhalation cycle has ended."

[Hess et al. '219, column 7, lines 18-22, emphasis added]

Hess et al. '219 thus equates a continued heating of the spray device through the end of the atomization cycle, "same as a continuation for a predetermined time of the actuating of the vibrating means". This is directly counter to the claim language "pausing for a pre-determined time separation period" according to claim 10, "activating the time delay unit for a pre-determined time-separation" according to claim 12, and "deactivating the vibrating unit and initiating a time delay" according to claim 14. Clearly, Hess et al. '219 neither teaches nor implies the time separation of the atomization cycle and the drying cycle as claimed. The claims are not anticipated by Hess et al. '219.

Reversal of the Examiner's rejection of the currently presented claims is respectfully solicited.

Respectfully submitted,



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